



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF COASTAL AND LAND USE COMPLIANCE & ENFORCEMENT

Chester Office

100 North Road

Chester, New Jersey 07930

Tel. (908) 879-3769 • Fax. (908) 879-6797

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

CATHERINE R. McCABE

Commissioner

July 21, 2020

CERTIFIED MAIL/RRR

7017 1450 0001 1053 2122

Oberwill Corp, Property Owner
Attn: Alexander Decter
91 North Rockledge Drive
Livingston, NJ 07039

CERTIFIED MAIL/RRR

7017 1450 0001 1053 2139

366-394 Wilson Ave, LLC, Contract Purchaser
Attn: Joseph Salomone
17 Demarest Drive
Wayne, NJ 07470

Re: Notice of Violation

NJDEP Land Use File No. PEA200001 – 0714-20-0004.1

366-394 Wilson Avenue Rear, Block 5038, Lot 97

Newark City, Essex County, NJ

Dear Mr. Decter and Mr. Salomone:

Enclosed for service upon you is a Notice of Violation (NOV) issued by the NJDEP's Bureau of Coastal and Land Use Compliance and Enforcement.

Should you have any questions concerning the enclosed NOV, please contact David Sumba, Environmental Specialist 3, of my staff at david.sumba@dep.nj.gov or at the telephone number or address indicated above.

Sincerely,

Armand Perez, Region Supervisor

Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure

C: James Kelly, Environmental & Geotechnical Services LLC
Kenneth Louis, Municipal Clerk, Newark City
Philip Scott, Director, Engineer's Office, Newark City
Matthew D'Alessandro, Assistant Manager, Hudson Essex Passaic Soil Conservation District
Christian Zografos, Environmental Engineer, Division of Land Use Regulation, NJDEP
Gary Nickerson, Environmental Specialist, Division of Land Use Regulation, NJDEP
Elizabeth Stochak, Bureau of Hazardous Waste Compliance & Enforcement, NJDEP
Pamela Tames, PE, U.S. Environmental Protection Agency
Bureau File





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NOTICE OF VIOLATION

Responsible Entity 1:	Oberwill Corp, Property Owner
Responsible Entity 2:	366-394 Wilson Ave, LLC, Contract Purchaser/Responsible Entity
NJDEP Land Use File No.	PEA200001 – 0714-20-0004.1
Site Location:	366-394 Wilson Avenue Rear, Block 5038, Lot 97 Newark City, Essex County, NJ, 07105

You are hereby notified that as a result of a compliance evaluation conducted with regard to the above location, the following violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.) and the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.) and the regulations (N.J.A.C. 7:13-1.1 et seq.) were determined.

a. State Open Water, N.J.A.C. 7:7A-2.2(b)

Requirement: Pursuant to N.J.A.C. 7:7A-2.2(b), the discharge of dredge or fill material into State open waters is a regulated activity.

Description of Noncompliance: The unauthorized discharge of dredge or fill material into State open waters, specifically, approximately 870 square feet of a tributary of Pierson's Creek has been filled and piped on the west side of the property without the benefit of a Land Use permit from the NJDEP.

b. Flood Hazard Area, N.J.A.C. 7:13-2.1(a)

Requirement: Pursuant to N.J.A.C. 7:13-2.1(a), no person shall engage in a regulated activity in a regulated area without a flood hazard area permit as required by this chapter, or a coastal permit as required by N.J.A.C. 7:7 and 7:7E.

Description of Noncompliance: The performance of unauthorized regulated activities within a regulated area without the required permit authorization. The regulated activities include the unauthorized piping of a tributary of Pierson's Creek and the staging of soil stockpiles within a flood hazard area associated with Pierson's Creek and the Newark Bay without the benefit of a Land Use

permit from the NJDEP. The activities in question have collectively impacted approximately 244.9 cubic yards of flood hazard area volume.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY.

CORRECTIVE ACTIONS:

Within 30 calendar days of receipt of this document, please implement either Corrective Action 1 or 2 below to attain compliance with this Notice of Violation:

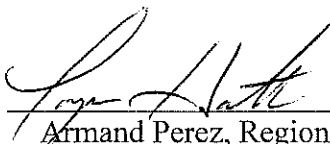
1. Submit a permit application to NJDEP's Division of Land Use Regulation (DLUR) to legitimize the unauthorized activities described in the Description of Noncompliance above; OR;
2. Submit to this office a restoration plan that depicts and describes the restoration of the unauthorized activities in the Description of Noncompliance above to their pre-disturbance conditions. The restoration plan shall include the following:
 - a. Removal of the unauthorized piping and re-establishment of the tributary;
 - b. Under the supervision of a Licensed Site Remediation Professional and at the direction of the U.S. Environmental Protection Agency, please remove and properly dispose of all stockpiles of soil that are the subject of this Notice;
 - c. Provide information regarding a receiving site/location as well as documentation for disposal of the soil and associated materials to be removed;
 - d. Stabilization and re-vegetation measures to be implemented upon removal of the unauthorized asphalt material;
 - e. Proposed schedule for the commencement and completion of the restoration work.

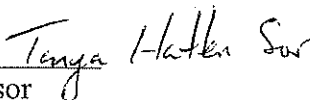
RESPONDING TO THIS NOTICE:

Within 10 calendar days of receipt of this Notice of Violation, please submit in writing to David Sumba, Environmental Specialist 3, an explanation of the corrective measures you have taken or will take to attain compliance in this matter. You may submit the written response to Mr. Sumba via email at david.sumba@dep.nj.gov.

This **Notice of Violation** serves as notice that the NJDEP's Bureau of Coastal and Land Use Compliance and Enforcement has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Monetary penalties may be assessed daily.

Issued by:


Armand Perez, Region Supervisor


Tanya Hatten, Supervisor

Date: 07/21/2020

Bureau of Coastal and Land Use Compliance and Enforcement